

DATE OF DETERMINATION	4 November 2024
DATE OF PANEL DECISION	3 November 2024
DATE OF PANEL BRIEFING	29 October 2024
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	None
DECLARATIONS OF INTEREST	The Chair considered that as the Council has an interest in the DA, there is a reasonably perceived conflict of interest for Council appointed Panel members Clr Bryce Wilson and Clr John Preston given they are serving Councillors. Queanbeyan Palerang Regional Council is the registered owner of the site and is considered to have a commercial interest in the land the subject of the development application and the determination of the DA.

Public meeting held by videoconference on 6 August 2024, opened at 2pm and closed at 4pm.
Papers circulated electronically on 23 July 2024. Supplementary Assessment Report circulated on 15 October 2024.

MATTER DETERMINED

PPSSTH-224 – Queanbeyan-Palerang – DA.2023.0044 – RUTLEDGE STREET & 257 CRAWFORD STREET
QUEANBEYAN 2620 – Construction of shop-top housing, comprising:

- Two 10 storey buildings,
- Sixteen commercial premises at ground floor level,
- 178 residential units above ground floor level (including 15% of 'affordable housing' (i.e. 27 apartments) to be managed by a community housing provider),
- Two levels of basement parking,
- Demolition of 3 existing single storey dwellings and 3 community/commercial buildings,
- Removal of 7 trees (6 on-site, 1 off-site),
- Retention of two heritage buildings (Old Fire Station, Dutton's Cottage),
- Consolidation of Lots 31 DP771673, Lot 2 DP748338, Lot 18 DP548244 and Part Lot 2 DP 1179998

(as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel had previously considered a detailed assessment report on this matter, including submissions by the community, the applicant and relevant authorities. A public meeting was held on 6 August 2024 and following verbal submissions from members of the public, the Panel deferred the determination of the application to enable:

- the applicant and members of the public to fully consider and provide further submissions in relation to, additional information provided regarding traffic impacts, landscaping and tree management, revised architectural plans including revised elevations and sections;
- sufficient time for the applicant to consider the draft conditions of consent and prepare a response to Council if necessary;

- the TTW *Response to TfNSW TIA comments (24 June 2024)* to be referred to TfNSW for further comment;
- the applicant to provide a summary statement on how the proposal delivers on the transitional height requirements of the QPRCLEP with a particular reference to the residential areas to the south, noting the conclusion of both Clause 4.6 exceptions;
- the applicant to provide further information on the final treatment of the heritage well including the proposed outcomes and management of the well below floor level; and
- the Council to provide an additional condition of consent which requires development consent for the future use of the two heritage buildings (Old Fire Station, Dutton's Cottage) should the Panel be of a mind to approve the application.

Council provided a Supplementary Assessment Report and recommended draft conditions of consent on 15 October 2024 which included consideration of the further submissions received from members of the public, an assessment of further comments from TfNSW, and consideration of information provided by the applicant regarding the information requested and the revised draft conditions of consent. The Panel considered this information, and two (2) further late submissions received from the public, during a final briefing with Council and the applicant on 29 October 2024.

The Panel's position on the matters raised in the applicants' latest submission, the submissions received from the public, and the Council Supplementary Assessment Report is discussed as follows:

Traffic

The Panel noted that both TfNSW and the Council's development engineer further reviewed the Traffic Impact Assessment, and both support the application. The Panel is satisfied that the final traffic design and the conditions contained in the consent appropriately mitigate any residual traffic impacts which may arise from the development.

Heritage

The Panel is satisfied that the heritage components of the "well" located on the site, and the impacts on the heritage buildings located on the adjoining sites in Crawford Street have been thoroughly considered and are adequately protected. The Panel is satisfied that the heritage buildings along Crawford Street will retain their heritage value and will not be overwhelmed by the proposed towers.

Noise

The Panel noted the comments of the Council's environmental health officer who agreed with the conclusions of the applicant's Acoustic Report that there would be no ongoing unacceptable noise impacts to the area because of the proposal. The Panel supported the implementation of conditions to ensure noise and vibration impacts are kept within applicable limits and standards during the construction phase. In addition, the Panel was satisfied that road noise associated with traffic generated by the proposal would remain within applicable limits established by the EPA's Road Noise Policy.

Bulk and scale

In terms of bulk and scale, the Panel is satisfied that the proposed development has been designed having regard to its City Centre location and the desired future character of the area as set out in Queanbeyan-Palerang Regional Local Environmental Plan 22 and the relevant objectives of the land use zone. Whilst in a prominent location on the edge of the City Centre, the Panel is satisfied that the development provides for an appropriate transition from the emerging built form of the City Centre to the residential areas to the south. The Panel is also satisfied that the towers are unlikely to overwhelm the values of the two heritage items (Old Fire Station and Dutton's Cottage) on Crawford Street which are to be retained.

Contravention of a development standard

Following consideration of the written requests from the applicant, made under cl 4.6 (3) of the Queanbeyan-Palerang Regional Local Environmental Plan 2022 (QPRLEP), that has demonstrated that:

- a) compliance with cl. 4.3 (Height of Building) is unreasonable or unnecessary in the circumstances; and
- b) compliance with cl. 4.4 (Floor Space Ratio) is unreasonable or unnecessary in the circumstances; and
- c) there are sufficient environmental planning grounds to justify contravening the development standards.

the Panel is satisfied that:

- a) the applicant's written requests adequately address the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Building) and cl. 4.4 (Floor Space Ratio) of the QPRLEP and the objectives for development in the B3 Commercial Core zone; and
- c) the concurrence of the Secretary has been assumed.

Affordable housing

During consideration of the development application, the NSW State Government amended the SEPP Housing 2021 to incentivise the provision of affordable housing across NSW. It is noted that this development application was submitted before these provisions were enacted and is not the subject of any relevant transitional provisions. Under these circumstances the amendments do not apply.

However, it is noted that the development proposal now includes the provision of 15% affordable housing (27 units) and the built form outcomes, particularly in relation to height and FSR would generally be consistent with the incentives provided by the Housing SEPP. This adds weight to the public interest considerations relating to the proposal's departures from clauses 4.3 (Height of Building) and cl. 4.4 (Floor Space Ratio) of the QPRLEP.

The applicant confirmed during the final briefing that, to avoid concentration of affordable housing within one area of the development, the twenty-seven (27) affordable housing units would be located throughout the development.

Conclusion

The Panel is satisfied that the development is an appropriate response to the site and its heritage context and reflects the policy framework adopted by QPRC for the emerging City Centre. The proposed development will provide much needed housing, including affordable housing, in a well serviced and accessible location.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to a minor amendment to the conditions of consent as discussed below.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variations to building height and floor space ratio and approve the development application for the reasons outlined in the Council Assessment Report and as follows:

- i. A thorough assessment in terms of Section 4.15 of the Environmental Planning and Assessment Act, 1979 had been undertaken.
- ii. The proposed development is consistent with the statutory and policy framework established by QPRLEP 2022.
- iii. The preconditions to the grant of consent have been satisfied.

- iv. The impacts of the development proposal on heritage have been thoroughly considered and found to be acceptable.
- v. The proposal is unlikely to result in any unacceptable amenity, environmental or land use safety impacts subject to the imposition of the revised conditions of consent.
- vi. The development is well designed, is sensitive to the heritage context of the site and is responsive to the emerging future character of the Queanbeyan commercial area.
- vii. Having regard to recent amendments to the SEPP Housing 21, the inclusion of 15% affordable housing (27 units) adds weight to the public interest considerations relating to the proposal's departures from clauses 4.3 (Height of Building) and cl. 4.4 (Floor Space Ratio) of the QPRLEP.
- viii. The development will result in additional housing stock including affordable housing in close proximity to employment, services and transport facilities.
- ix. Commercial tenancies at ground level will help activate the commercial core.

Given the above, the Panel is satisfied that the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the draft conditions contained in the Council Supplementary Assessment Report with the following amendment:

- Condition 85 is to be moved so it is required to be satisfied during the demolition and/or building works stage (instead of prior to OC) to ensure the requirements for 'Haulage Truck Hours of Operation' are appropriately satisfied during the demolition and building stage of the development.



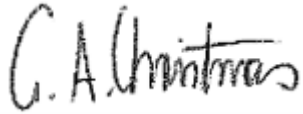
The Panel noted the applicant supports the draft conditions, as amended above.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Setbacks
- Height
- Streetscape
- Overshadowing
- Heritage
- Bulk and Scale
- Carparking
- Traffic and traffic safety
- Traffic impact analysis
- Service lane operation
- Pedestrian safety
- Exterior colour scheme
- Affordable housing,
- Site yield
- Impacts on heritage
- Future character
- Public Interest
- Impacts on Mental Health
- Flooding
- Tree removal
- Noise

The Panel considers that concerns raised by the community, including issues raised during the public meeting and more recent submissions, have been adequately addressed in the Assessment Report and the Supplementary Assessment Report and the Panel’s determination. The Panel notes that in addressing these issues appropriate conditions have been imposed addressing the future use of the two heritage buildings (Old Fire Station and Dutton’s Cottage) and the recommendations and specifications detailed in the acoustic report.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-224 – QUEANBEYAN-PALERANG - DA.2023.0044
2	PROPOSED DEVELOPMENT	<p>Construction of shop-top housing, comprising:</p> <ul style="list-style-type: none"> ▪ Two 10 storey buildings, ▪ Sixteen commercial premises at ground floor level, ▪ 178 residential units above ground floor level (including 15% of ‘affordable housing’ (i.e. 27 apartments) managed by a community housing provider), ▪ Two levels of basement parking, ▪ Demolition of 3 existing single storey dwellings and 3 community/commercial buildings, ▪ Removal of 7 trees (6 on-site, 1 off-site), ▪ Retention of two heritage buildings (Old Fire Station, Dutton’s Cottage), <ul style="list-style-type: none"> • Consolidation of Lots 31 DP771673, Lot 2 DP748338, Lot 18 DP548244 and Part Lot 2 DP 1179998
3	STREET ADDRESS	6-12 Rutledge St and 257 Crawford St Queanbeyan
4	APPLICANT/OWNER	Village Building Co. Ltd / Queanbeyan-Palerang Regional Council
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Planning System) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (BASIX) 2004 ○ Queanbeyan-Palerang Regional Local Environmental Plan 2022 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Queanbeyan Development Control Plan 2012 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 23 July 2024 • Cl. 4.6 requests in relation to Cl. 4.3 building height and Cl. 4.4 floor space ratio • Supplementary Assessment Report received 15 October 2024 • Written submissions during public exhibition: 57 (1st round 40 + 2nd round 17) • Written submission received following publication of Supplementary Assessment Report: 2

		<ul style="list-style-type: none"> • Verbal submissions at the public meeting held on 6 August 2024: <ul style="list-style-type: none"> ○ Cr Katrina Willis obo Councils Heritage Advisory Committee, Marlene Eggert, Phillip Gray, Robert John Raison, Dominica McOwan, Steve Warren-Wilson, Helen Ferguson obo Heritage-Culture Arts Promotions Inc, Marina Lobastov, Marina Lobastov obo David Burke, Carolyn Twible, Phillip Andrew Watkins, Collin Thomas Imire obo Queanbeyan Uniting Church ○ Council Consultant Assessment Officer – Richard Nash (Purdons) ○ On behalf of the applicant – Jamie Cregan (Village Building Co), George Danassis (Village Building Co), Fred Kasperek (Kasperek Architects) • Total number of unique submissions received by way of objection: 37
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Applicant and Council Briefing: 9 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans ○ <u>Applicant representatives</u>: Kylie Coe (Village Building Co. Ltd), Fred Kasperek, Jamie Cregan (Village Building Co. Ltd), Vince Whiteside (Village Building Co. Ltd), David Carey ○ <u>DPHI</u>: Amanda Moylan (DPHI) • Site inspection: 6 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans, Graeme Harlor ○ <u>DPHI</u>: Amanda Moylan (DPHI) • Briefing: 24 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans ○ <u>Council Consultant Assessment Planner</u>: Maggie Li (Purdon), Richard Nash (Purdon) ○ <u>DPHI</u>: Amanda Moylan (DPHI), Tracey Gillett (DPHI), Tim Mahoney (DPHI) • Briefing: 4 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans, Tim Reich ○ <u>Council Consultant Assessment Planner</u>: Maggie Li (Purdon), Richard Nash (Purdon) ○ <u>Applicant representatives</u>: Kylie Coe (Village Building Co. Ltd), George Danassis (Village Building Co. Ltd), Jamie Cregan (Village Building Co. Ltd), Vince Whiteside (Village Building Co. Ltd) ○ <u>DPHI</u>: Amanda Moylan, Tracey Gillett, Tim Mahoney • Final briefing to discuss council's recommendation: 6 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans, Tim Reich, Ruth Ormella ○ <u>Council Consultant Assessment Planner</u>: Maggie Li (Purdon), Richard Nash (Purdon)

		<ul style="list-style-type: none"> ○ <u>DPH</u>: Amanda Moylan, Tracey Gillett, Rach Harlock • Final briefing of deferred matter: 29 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Luceille Yeomans, Tim Reich, Ruth Ormella, Gillian Bogue ○ <u>Council Consultant Assessment Planner</u>: Maggie Li (Purdon), Richard Nash (Purdon), Richard Nash (Purdon), Angela Jones (Purdon) ○ On behalf of the applicant – Will Pearson (Village Building Co), George Danassis (Village Building Co), Fred Kasperek (Kasperek Architects), Vince Whiteside (Village Building Co) ○ <u>DPH</u>: Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Supplementary Assessment Report